

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL  
DEVELOPMENT PERMIT DENIED BY  
SKAGIT COUNTY TO PACIFIC RIM  
GROUP, INC.

PACIFIC RIM GROUP, INC.,  
Appellant,

v.

SKAGIT COUNTY,  
Respondent,

W. F. COTTRELL, et al.,  
Intervenors.

SHB No. 77-30

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the request for review of the denial of a substantial development permit, came before the Shorelines Hearings Board, W. A. Gissberg. Chairman, Chris Smith, Dave J. Mooney, William A. Johnson and Robert E. Beaty, on December 8, 9, and 12, 1977 in Mt. Vernon, Washington.

Richard Kelleher appeared for appellant Pacific Rim Group, Inc.; Deputy Prosecutor William Nielsen represented respondent Skagit County;

1 Charles R. Twede appeared for the intervenor-cross appellants W. F.  
2 Cottrell, et al.

3 Having heard the evidence, having reviewed the exhibits, the  
4 Shorelines Hearings Board makes these

5 FINDINGS OF FACT

6 I

7 The proposed development is an outdoor recreational preserve to be  
8 operated by Thousand Trails, Inc., a camping club subsidiary of the  
9 applicant, the Pacific Rim Group, Inc. The preserve would include 575  
10 campsites with ancillary activity facilities built on approximately  
11 80 acres of a 358-acre site located ten miles north of Mt. Vernon,  
12 Washington.<sup>1</sup>

13 II

14 The project site is bounded on the west by Interstate 5, on the  
15 north by a wooded area with several scattered dwellings, on the east by  
16 Friday Creek Road, and on the south by timberland. Additional access  
17 to the site is provided by Old Highway 99 which meets the Friday Creek  
18 Road at the southeastern corner of the project. Friday Creek, a  
19 tributary of the Samish River, meanders through the project's eastern  
20 boundary. Existing on-site near the roads' juncture is the water supply  
21 intake, from the creek, of a nearby fish hatchery operated since 1899 by  
22 the State of Washington Department of Fisheries for the enhancement and  
23 monitoring of coho, steelhead and cutthroat.

24 Preliminary discussions have been held by the appellant with the  
25

---

26 1. See Exhibits A-9 and R-48(17).

1 State of Washington Department of Highways regarding probable construction  
2 of a rest-stop on the property's I-5<sup>5</sup> boundary.

3 III

4 The preserve development is divided into two design phases. Phase  
5 One, located in the northeastern portion of the site within 200 feet of  
6 Friday Creek, is the improvement of a 75-unit campground approved under  
7 a County zoning conditional use permit in 1971. The rehabilitation of 32  
8 existing units and the Phase One clubhouse were completed under the  
9 authority of the 1971 permit and are not at issue here. Preparation of  
10 the additional 43 sites and the proposed swimming pool are developments  
11 of Phase One requiring a substantial development permit. As described,  
12 the proposed improvements to a pre-1971 vehicular bridge connecting the  
13 campsites would not require a substantial development permit.<sup>2</sup>

14 Upon purchasing the property in 1976, Thousand Trails turned a  
15 swampy drainage area adjacent to the clubhouse into a settling pond for  
16 the site. No substantial development permit was applied for although a  
17 hydraulics permit has been issued by the Department of Fisheries for the  
18 pond. A concrete slab adjacent to the clubhouse was also built without  
19 a permit.

---

21 2. RCV 90.58.030(3)

22 (e) . . . the following shall not be considered substantial  
23 developments for the purpose of this chapter:

24 (1) Normal maintenance or repair of existing structures or  
developments, including damage by accident, fire or elements;

24 . . . .

25 See also Remarks of Senator Gissberg in Journal of the Senate,  
26 May 4, 1971, pp. 1413-1414.

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

IV

Phase Two of the project consists of the creation of 500 campsites with ancillary activity facilities including tennis courts, a youth-oriented clubhouse, sports courts, a soccer field, horse stalls, and a swimming pool. Phase Two is concentrated in two areas, one (100 sites) at the center of the preserve, and the larger development (400 sites) at the southwestern section of the property. Phase Two is 600 to 700 feet from Friday Creek and separated from the waterway by relatively steep grades.

Buffer zones of vegetation will surround the site, with a 200-foot buffer maintained along Friday Creek.

Water and sewage disposal facilities as conditioned by this Order are adequate for the proposed project. During initial construction, both Phase One and Phase Two will be connected to an existing sewer main. A community well, approved by the Skagit County Health Department, will service both Phase One and Phase Two.

No waters from the swimming pools will ever be emptied into Friday Creek. Runoff from the pond into the creek would occur only under extraordinary circumstances. Reversion of the pond to its former swampy state would serve no ecological purpose.

V

Under the Thousand Trails concept, camping club members buy the use of club sites and facilities at any of the company's campgrounds rather than acquiring a property interest in a specific campsite.

1 Thousand Trails is currently in operation in Leavenworth and Chehalis  
2 with a fourth site under construction on Hood Canal. Negotiations  
3 have been initiated for acquisition of several additional sites, one of  
4 these also in the Skagit basin.

5 Memberships in Thousand Trails, Inc. continue to be sold and  
6 total to date at least 3,800; 600 memberships have been sold in Skagit  
7 and Whatcom Counties. Although "historic use" of the campgrounds has  
8 indicated that one site per 20 members is needed, Thousand Trails  
9 plans its acquisitions and sales on a one-site per five memberships ratio.  
10 It is anticipated that local use of the facilities will be heavier at  
11 the Skagit preserve than elsewhere although peak capacity use is  
12 expected only during the three or four summer holiday weekends.

## 3 VI

14 Under the Skagit County Master Program, the wetlands adjacent to  
15 Friday Creek are within the "Rural" environment, "a shoreline area  
16 typified by low over-all-structural density and low to moderate intensity  
17 of uses."<sup>3</sup> Within the Rural environment, recreation development is  
18 a permitted use, subject to the General and Tabular Regulations.<sup>4</sup> Phase  
19 Two of the project as proposed and conditioned by this Order clearly  
20 complies with these regulations. Specifically, facilities to be  
21 constructed are well within the setback and site coverage requirements.<sup>5</sup>  
22

---

23 3. Skagit County Shoreline Management Master Program, ch. 6.04.3.a,  
24 p. 6-6.

25 4. Chapter 7.12.2.A(3), p. 7-83.

26 5. Table R, p. 7-87.

VII

The Skagit County Interim Zoning Ordinance classifies the site as Residential with a minimum lot size of 8,400 sq. ft. The proposed development is a Conditional Use under the Interim Ordinance allowable at the site with the approval of the Skagit County Board of Adjustment.

The Skagit County North Central Comprehensive Plan, classifying the site as "Rural Open Space," recommends a density of one dwelling unit per five acres which may be increased to one unit per two acres if approved as a planned unit development (P.U.D.). The design of the instant proposal, comparable to a P.U.D., would result in a density of 1.6 campsites per acre.<sup>6</sup>

VIII

An application for a substantial development permit for the Skagit County Recreational Preserve was filed on February 15, 1977. A draft Environmental Impact Statement (EIS) was circulated on March 3, 1977 with a final EIS filed on April 29, 1977. On May 10, 1977, the Skagit County Planning Department recommended approval of the development with the imposition of 24 specific conditions. Following a public hearing, the Skagit County Board of County Commissioners rejected the Planning Department's recommendation and denied the substantial development permit on July 12, 1977.<sup>7</sup> The Commissioners found that:

---

6. Calculating the density in terms of predicted on-site population per day, the comparative annual total user days detailed in the EIS were: Preserve Project - 170,150; Single Family/5 acres - 91,469; PUD 2-acre lots - 228,672. See Table 5, Exhibit R-15.

7. See Exhibit R-75.

1 a. The proposed development was "not in conformance with the  
2 Skagit County Shoreline Master Program," specifically its policies  
3 regarding recreation,<sup>8</sup>

4 b. No satisfactory plan was submitted to ensure non-adverse  
5 impact on water quality of creek from pool and pond of existing  
6 campground, and

7 c. Project would adversely impact existing roads.

#### 8 IX

9 Any Conclusion of Law hereinafter stated which may be deemed a  
10 Finding of Fact is hereby adopted as such.

11 From these Findings the Shorelines Hearings Board comes to these

#### 12 CONCLUSIONS OF LAW

#### 13 I

14 In making its determination, the Shorelines Hearings Board must  
15 apply the statutory criteria for evaluating a proposed development,  
16 i.e., consistency with the provisions of the Shoreline Management Act,  
17 and the applicable master program.

18 The proposed use, a recreational preserve available to the general  
19 public through memberships, is a preferred use of the shorelines under  
20 the policies of the Shoreline Management Act. Public access and  
21 enjoyment of the state's shorelines is a pervasive policy of the Act  
22 as well as the Department of Ecology guidelines and regulations. This  
23 project will clearly "provide an opportunity for substantial numbers  
24

---

25 8. Skagit County Master Program, ch. 7.12.1.B, D, and E,  
26 pp. 7-79 through 7-82.

1 of the people to enjoy the shorelines of the state."<sup>9</sup>

2 II

3 The provisions of the Skagit County Master Program cited by the  
4 Commissioners in their denial of the substantial development permit  
5 are policy statements which advise:

6 "B. Location and Access

7 (1) Active shoreline recreational access, developments,  
8 and opportunities should be allowed to expand only  
9 in those areas already used for such purposes or on  
those shorelines environmentally capable of  
supporting such activities.

10 (2) Passive shoreline recreational access and  
11 opportunities should minimize the concentration of  
12 users at specific points or portions of shoreline  
13 areas. This may be accomplished, where appropriate  
and feasible, by a combination of linear shoreline  
trails or easements tied in with a series of public  
parking or access points."

14 The instant proposal is an expansion of an existing campground  
15 area, and the specific shoreline area, including the fish hatchery,  
16 can support the projected activities without environmental detriment.  
17 However, the Fisheries Department has expressed concern regarding who  
18 would be financially liable for damages to the fishery of the hatchery  
19 resulting from the acts of club members or their guests. In response  
20 to such concern, appellant expressly agreed, at the instant hearing,  
21 that both Pacific Rim Group, Inc. and Thousand Trails, Inc. would  
22 jointly and severally assume such liability.

23 Neither the water quality of Friday Creek nor the juvenile rearing  
24 or salmon runs in the creek will be adversely affected by the proposal

25 \_\_\_\_\_  
26 9. RCW 90.58.020.

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER



1 as conditioned. There is no evidence that proximity of people to a  
2 waterway endangers its fishlife. Sports fishing, traditionally permitted  
3 the length of Friday Creek, could be prohibited by the Department of  
4 Game if such action is deemed necessary or desirable by the Department  
5 of Fisheries, which is in a convenient position to observe any possible  
6 adverse effects.

7 "D. Design

8 (1) Sewage Disposal:

- 9 a. Solid and liquid wastes and untreated effluent  
10 should not be allowed to enter any bodies of  
water both on and off the recreation site.

11 . . . ."

12 The proposal as designed and conditioned will not violate this policy.

3 "E. Conflicts

14 . . .

- 15 (1) Shoreline recreation developments, designations,  
16 activities, and accesses should be compatible  
with the adjacent and surrounding land and water  
uses.  
17 (2) There should be a minimum of conflict between the  
18 recreation activities and between the activities  
and existing land and water uses.

19 . . . ."

20 The proposal is consistent with the master program use regulations  
21 for the area and while not duplicating the existing surrounding uses,  
22 e.g., the hatchery, timber, farmsteads, etc., a well-monitored campground  
23 is not incompatible with such uses.

24 III

25 The concern with the concentration of a particular use rather  
26 than the nature of such use requires a more refined analysis by the

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 Shorelines Hearings Board.

2 The projected density of the campground is well within the interim  
3 zoning ordinance. It should also be noted that this density is  
4 comparable to the density proposed in an earlier campground case,  
5 characterized by the Shorelines Hearings Board as "relatively low."<sup>10</sup>

6 It is anticipated that on the few peak weekends of a summer camping  
7 season, approximately 2,500 people would be present at the Skagit  
8 preserve. The effects of such sporadic concentrated use on the shoreline  
9 itself are mitigated under the proposal as designed and conditioned,  
10 specifically by:

- 11 1. The location of organized activities 600 feet from the creek,
- 12 2. The buffering and shading of the creek banks,
- 13 3. The monitoring by the management of campground activities, and
- 14 4. The condition limiting any future developments at the site.

15 The Shorelines Hearings Board hears and determines the cases  
16 before it de novo. Even if deference were given to the Board of  
17 County Commissioners' interpretation of their own master program, the  
18 Shorelines Hearings Board concludes that their decision that the cited  
19 master program policies are violated by the instant proposal is  
20 erroneous.

21 IV

22 Skagit County may well have concerns and priorities which they  
23 must and presumably will consider in reviewing the project under  
24

---

25 10. SHB No. 230, Finding of Fact VI, p. 5.

1 their traditional zoning authority exercised through the Board of  
2 Adjustment's conditional use approval.

3 Within the context of the purpose and policies of the Shoreline  
4 Management Act, however, the instant proposal is permissible and the  
5 decision of the Board of Commissioners denying a substantial develop-  
6 ment permit is reversed.

7 V

8 The developments authorized under the permit to be issued by Skagit  
9 County under this Order are delineated by and should be limited to those  
10 specific developments detailed on Exhibits A-9 and R-48(17).

11 VI

12 With certain specified exceptions detailed below, the conditions  
13 to be imposed under this permit should incorporate the recommendations  
14 of the planning staff (Exhibit R-46), the agreements recited in the  
15 Pre-Hearing Order dated November 1, 1977, and representations made by  
16 the appellant at the instant hearing.

17 Intervenor's express doubt that appellant will abide by any  
18 conditions placed upon the permit. If appellant fails to do so, it is  
19 clear that the permit may be rescinded pursuant to the provisions of  
20 RCW 90.58.140(8). Such an eventuality would appear to provide ample  
21 incentive for the permittee to adhere strictly to the conditions of  
22 the permit.

23 The Skagit County Planning Department has been painstaking in its  
24 efforts to implement the intent of the Shoreline Management Act and  
25 the Skagit County Master Program. The enforcement of the permit  
26 conditions will be under their responsible jurisdiction.

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

VII

The planning staff's recommendation (No. 10, Exhibit R-46) regarding the future use of Friday Creek Road is reinstated. The offer by the appellant to immediately close the road to campground traffic is not founded on traffic analyses and could lead to congestion and inefficient traffic flows adverse to the shoreline environment.

Additionally, the Board concludes that controlling access to the Creek by permitting properly constructed and maintained trails would be less damaging to the natural environment of the shoreline than the total elimination of such trails as agreed to by appellant.

VIII

A permit, when conditioned as provided under this Order, will be consistent with the master program of Skagit County and the provisions of the Shoreline Management Act.

IX

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions, the Board makes and enters the following

ORDER

The denial of a substantial development permit to the Pacific Rim Group, Inc. by the Skagit County Board of Commissioners is reversed. This matter is remanded to the Skagit County Board of Commissioners for issuance of a substantial development permit consistent with this Order which imposes the following conditions:

1. With the exception of that portion of recommendation No. 2 regarding sewage disposal for the existing development, the Skagit Coun

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 Planning Department recommendations, recited in Exhibit R-46, are hereby  
2 incorporated as conditions.

3 2. All Phase One developments, with the exception of the settling  
4 pond, must conform to the setback requirements (Table R) of the master  
5 program.

6 3. Trails to Friday Creek must be designed, constructed, and  
7 maintained in a manner which minimizes damage to the terrain and  
8 maximizes protection of the waterway.

9 4. Foliage and terrain adjacent to Friday Creek is to be left  
10 intact to provide a 200-foot buffer zone.

11 5. Phase One of the project, including the clubhouse, pool, and  
12 campsites, is to be connected to the public sewer system during initial  
13 construction.

14 6. Emergency measures are to be taken to repair any deficiencies  
15 in the existing septic systems prior to completion of the sewer connection.  
16 Any water drained from the pool prior to completion of the connection  
17 is to be hauled by truck from the site.

18 7. At appellant's expense, a new access from Route 99 and turn  
19 lanes on Route 99 will be constructed to facilitate access to the site.

20 8. Management and security personnel will be present at the  
21 campground throughout the year.

22 9. During the active camping season, supervised activity which  
23 concentrates use away from Friday Creek will be provided for members.

24 10. Camping at all times must be limited to designated campsites.

25 11. Pacific Rim Group, Inc. and Thousand Trails, Inc. shall be  
26 jointly and severally liable to the State of Washington Department of

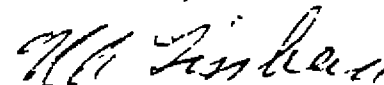
27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER 13

1 Fisheries for damage to the fishery of the hatchery resulting from  
2 the acts of club members or their guests.

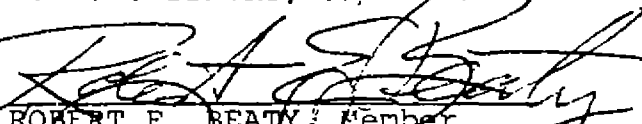
3 12. The campsite density and the ratio of campsites and facilities  
4 to open space authorized under this Order is never to be increased on  
5 the entire parcel (358 acres). If, therefore, the amount of open  
6 space on the entire parcel is reduced by appellant or any successor in  
7 interest, by condemnation or otherwise, and if any additional develop-  
8 ment is undertaken by the appellant or any of its successors in interest,  
9 the number of campsites or facilities must be simultaneously reduced to a  
10 level which will maintain the density and ratio established under this  
11 Order.

12 DATED this 17<sup>th</sup> day of January, 1978.


13 SHORELINES HEARINGS BOARD

14 

15 W. A. GISSBERG, Chairman

16 

17 ROBERT E. BEATTY, Member

18 

19 WILLIAM A. JOHNSON, Member

20 

21 DAVE J. MOONEY, Member

22 

23 CHRIS SMITH, Member

24  
25  
26  
27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER